

Department of Health and Human Services MaineCare Services # 11 State House Station Augusta, Maine 04333-0011 Tel: (207) 287-2674

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DATE: January 31, 2011

TO: Interested Parties

FROM: Russell J. Begin, Acting Director, MaineCare Services

SUBJECT: Proposed Rule: MaineCare Benefits Manual, Chapter III, Section 50, Principles of Reimbursement for

Intermediate Care Facilities for the Mentally Retarded

This letter gives notice of a proposed rule: MaineCare Benefits Manual, Chapter III, Section 50, Principles of Reimbursement for Intermediate Care Facilities for the Mentally Retarded. The rule is being reproposed to reschedule a public hearing cancelled due to the closure of all State offices on December 27, 2010 and to allow time for public comment on the proposed rule.

This rule does away with costs for Community Support Services (formerly called Day Habilitation Services) as part of the cost basis of the per diem rate for Intermediate Care Facilities for persons with mental retardation. Instead, the rule refers providers to the reimbursement methods and rate for Community Support Services set forth in the MaineCare Benefits Manual, Chapters II and III, Section 21. The amendment is made necessary by the repeal of MBM, Section 24, Day Habilitation Services. The amendment will also allow the billing code for this service to conform to federally required codes and the implementation of the Department's new claims processing system. This allows the provider to be reimbursed using a revenue code on the UB billing form instead of billing on a CMS 1500 billing form. This will simplify the billing process for providers. Since this rule is a Major Substantive rule, it will not be finally adopted until approved by the Legislature. This change was adopted by emergency rule effective April 1, 2010.

A public hearing is being held on March 3, 2011. The deadline for submitting comments is March 14, 2011.

Rules and related rulemaking documents may be reviewed at and printed from MaineCare Services website at or, http://www.maine.gov/dhhs/oms/rules/provider_rules_policies.html or a fee, interested parties may request a paper copy of rules by calling 207-287-9368. For those who are deaf or hard of hearing and have a TTY machine, the TTY number is 1-800-606-0215.

A concise summary of the proposed rule is provided in the Notice of Agency Rule-making Proposal. This notice also provides information regarding the rule-making process. Please address all comments to the agency contact person identified in the Notice of Agency Rule-making Proposal.

Notice of Agency Rulemaking Proposal

AGENCY: Department of Health and Human Services, MaineCare Services

RULE TITLE OR SUBJECT: MaineCare Benefits Manual, Chapter III, Section 50, Principles of Reimbursement for Intermediate Care Facilities for the Mentally Retarded.

PROPOSED RULE NUMBER:

CONCISE SUMMARY: This rule is reproposed to reschedule a public hearing cancelled due to the closure of all State offices on December 27, 2010 and to allow time for public comment on the proposed rule. This proposed rule does away with costs for Community Support Services (formerly called Day Habilitation Services) as part of the cost basis of the per diem rate for Intermediate Care Facilities for persons with mental retardation. Instead, the rule refers providers to the reimbursement methods and rate for Community Support Services set forth in MaineCare Benefits Manual (MBM), Chapters II and III, Section 21. The amendment is made necessary by the repeal of MBM, Section 24, Day Habilitation Services. The amendment will also allow the billing code for this service to conform to federally required codes and the implementation of the Department's new claims processing system. Since this rule is a Major Substantive rule, it will not be finally adopted until approved by the Legislature. This change was adopted on an emergency basis effective April 1, 2010.

SEE http://www.maine.gov/dhhs/oms/rules/provider_rules_policies.html for rules and related rulemaking documents.

THIS RULE WILL _ WILL NOT _X_ HAVE A FISCAL IMPACT ON MUNICIPALITIES.

STATUTORY AUTHORITY: 22 M.R.S.A. §§ 42, 3173; 34-B M.R.S.A, §5432(3).

PUBLIC HEARING:

Date: March 3, 2011 at 8 a.m.

Location: Conference Room 1B

Department of Health and Human Services

MaineCare Services 442 Civic Center Drive Augusta, ME 04330

The Department requests that any interested party requiring special arrangements to attend the hearing contact the agency person listed above before February 25, 2011.

DEADLINE FOR COMMENTS: Comments must be received by midnight, March 14, 2011.

AGENCY CONTACT PERSON: Michael J. Dostie, Comprehensive Health Planner

AGENCY NAME: Office of MaineCare Services

ADDRESS: 442 Civic Center Drive

11 State House Station Augusta, Maine 04333-0011

TELEPHONE: 207-287-6124 FAX: (207) 287-9369

TTY: 1-800-606-0215 or 207-287-1828 (Deaf or Hard of Hearing)

10-144 CHAPTER 101 MAINECARE BENEFITS MANUAL CHAPTER III

SECTION 50

PRINCIPLES of REIMBURSEMENT for INTERMEDIATE CARE FACILITIES for the MENTALLY RETARDED ESTABLISHED:7/1/80 LAST UPDATED April 1, 2010

4000 VARIABLE COST COMPONENT (cont.)

- 4170 Day Habilitation-Community Support Services Outside of the Facility
- The staffing costs of the facility will not be allowed during the time members are attending outside day habilitation Community Support programs, unless a member is unable to attend due to illness, etc., unless such staffing costs are approved by the DHHS Office of Adults with Physical and Cognitive Disabilities. If such a situation occurs, only a minimal amount of staffing required to assist the member not attending day habilitation Community Support will be allowed.
- The Department of Health and Human Services will reimburse day habilitation Community

 Support services in accordance with Section 241, Chapters II & III, Day Habilitation Services for Persons with Home and Community Benefits for Members with Mental Retardation or

 Autistic Disorder. The costs associated with Community Support are not included in the ICF/MR per diem rate.
- 4180 Costs Attributable to Asset Sales. Costs attributable to the negotiation of settlement or a sale or purchase of any capital asset (by acquisition or merger) are not allowable costs. Included among such unallowable costs are: legal fees, accounting and administrative costs, appraisal fees, banking and broker fees, travel costs, and the cost of feasibility studies.

5000 SPECIAL SERVICE ALLOWANCE

- 5010 Principle. A special service is to be distinguished from a routine service.
 - 5010.1 A special service is that of an individual nature required in the case of a specific member. This service is limited to professional services such as physical therapy, occupational therapy, and speech and hearing services. Special services of this nature must be billed monthly to the Department as separate items required for the care of individual members.

6000 LABOR COST COMPONENT

- Wages: Reasonable costs incurred for personnel wages will be reimbursed at actual cost.
- 6011 All Facility Staff:
 - 6011.1 The reasonable allowable cost of wages for personnel employed on site at the facility shall be determined based on the lesser of actual hours worked, or hours approved by the Department.
 - 6011.2 Direct care staff hours related to mandatory programs, as specified in Section 3005.10, above, will be considered allowable and will be reimbursed at the actual hourly wage for the relevant category of direct care staff.

10-144 CHAPTER 101 MAINECARE BENEFITS MANUAL CHAPTER III

SECTION 50

PRINCIPLES of REIMBURSEMENT for INTERMEDIATE CARE
FACILITIES for the MENTALLY RETARDED ESTABLISHED 7/1/80
LAST UPDATED April 1, 2010

6011.3 Contract labor costs for RNs, LPNs, and CNAs working on-site are an allowable labor cost. Contract labor hours must be included with the direct care worked hours for the comparison to approved hours.